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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,085	08/02/2000	James L. Kroening	97-0506D4	8976

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SUITER WEST PC LLO  
14301 FNB PARKWAY  
SUITE 220  
OMAHA, NE 68154

EXAMINER

GROSS, KENNETH A

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 05/27/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/631,085

Applicant(s)

KROENING ET AL.

Examiner

Kenneth A Gross

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 38 recites the limitation "the restore medium" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claim 38 recites the limitation "the information appliance" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim. Claim 45 recites "the list of software components" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. It is understood that Claim 45 is meant to depend on Claim 44, not Claim 38, and Claim 45 will be interpreted as such.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goshey et al. (U.S. Patent Number 6,205,527) in view of Fletcher et al. (U.S. Patent Number 6,009,274).

In regard to Claim 1, Goshey teaches: (a) accessing the restore medium by the information handling system (Figure 2, item 112); (b) loading a first set of software components capable of supplying data suitable for making the information handling system operational

(Figure 2, item 120). Although Goshey does teach a network interface used to receive data over a network (Figure 17, item 812 and Column 27, lines 35-40), Goshey does not teach initiating a connection with a network storage medium over a network, the connection initiated by instructions included on the restore medium and receiving a second set of software components suitable for updating the first set of software components. Fletcher, however, does teach a connection to a network storage medium over a network (Column 14, lines 11-13) and receiving a second set of software components suitable for updating the first set of software components (Column 14, lines 40-44). Fletcher does not explicitly teach a set of instructions for connection with a network, however, since a connection is made, and it is done on a computer, there must exist a set of instructions that initiate the connection to the network storage medium. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to access a restore medium and load a set of software capable of returning a computer system to an operational state, as taught by Goshey, and furthermore, to access a network storage medium and receive a second set of software components suitable for updating the first set of software components, as taught by Fletcher, since this would allow a system not only to fully restore itself to an operational state, but to be updated with the newest possible drivers and updates available. Goshey states the need for updated drivers and software in Column 1, line 59 to Column 2 line 6. So, it would be obvious to use the network interface, as taught by Goshey, to update the software on the restored computer system, as taught by Fletcher. Claims 10 and 19 correspond to Claim 1 and are rejected for the same reasons as Claim 1.

In regard to Claims 2-9, 11-18, and 20-37, for specific rejections of these claims, please see the office action mailed on March 27<sup>th</sup>, 2003.

In regard to Claim 38, Goshey teaches: (a) receiving the restore medium in a drive of the information handling system (Figure 1A, item 104b and 108); (b) accessing the restore medium received within the drive (Figure 2, item 118); (c) loading a first set of software components capable of supplying data suitable for making the information handling system operational (Figure 2, item 120). Although Goshey does teach a network interface used to receive data over a network (Figure 17, item 812), Goshey does not teach loading a program of instructions from the restore medium capable of causing the information appliance to initiate a connection with a network storage medium via a network, receiving a second set of software components, and loading the second set of software components for returning the information handling system to a restored state wherein the second set of components is updated in comparison with software components installed on the information appliance prior to the loss of function. Fletcher, however, does teach a connection to a network storage medium over a network (Column 14, lines 11-13) and receiving a second set of software components suitable for updating the first set of software components (Column 14, lines 40-44). Fletcher also teaches loading the second set of software components for returning the information handling system to a restored state (Column 14, lines 43-44). Fletcher does not explicitly teach a program of instructions for connection with a network, however, since a connection is made, and it is done on a computer, there must exist a program of instructions that initiate the connection to the network storage medium, since this is the obvious way for a computer to carry out method steps. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to receive the restore medium in a drive of the information handling system, accessing the restore medium received within the drive and loading a first set of software components capable of supplying data suitable for making the

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information handling system operational, as taught by Goshey, and furthermore, loading a program of instructions from the restore medium capable of causing the information appliance to initiate a connection with a network storage medium via a network, receiving a second set of software components, and loading the second set of software components for returning the information handling system to a restored state wherein the second set of components is updated in comparison with software components installed on the information appliance prior to the loss of function, as taught by Fletcher, since this would allow a system not only to fully restore itself to an operational state, but to be updated with the newest possible drivers and updates available. Goshey states the need for updated drivers and software in Column 1, lines 59-65 and Column 2 lines 1-6. So, it would be obvious to use the network interface, as taught by Goshey, to update the software on the restored computer system, as taught by Fletcher.

Claims 39-45 contain limitations that have already been addressed in the rejection of Claims 2-8, respectively, and are rejected for the same reasons as Claims 2-8, respectively.

### ***Response to Arguments***

5. Applicant's arguments filed March 17<sup>th</sup>, 2004 have been fully considered but they are not persuasive.

In regard to Claims 1-37, the applicant claims that there is no motivation for combining Goshey with Fletcher, since Goshey does not disclose "initiating a connection with a network storage medium over a network" and Fletcher does not disclose the use of a restore medium. However, Goshey does teach using a network interface in order to download data, from a

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network storage medium over a network, to a computer (Figure 17, item 812 and Column 27, lines 35-40) as well as the need to update software and drivers that have been restored in a computer system (Column 1, lines 59-65 and Column 2 lines 1-6). Fletcher teaches a connection to a network storage medium over a network (Column 14, lines 11-13) and receiving a set of software components suitable for updating a first set of software components (Column 14, lines 40-44) So, Fletcher teaches this need for updating, as mentioned in Goshey, by downloading updated software and drivers over a network.

In regard to Claims 38-45, these new Claims are rejected over Goshey in view of Fletcher above.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542. The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KAG



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**